

NO. 49145-1-II

COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

IN RE THE PERSONAL RESTRAINT PETITION OF

GREG MARTINEZ,

PETITIONER

DECLARATION OF COUNSEL

Richard Woodrow
3732 Pacific Avenue SE
Olympia, WA 98501
360.352.9911
352.9955 Fax

I am the attorney for Mr. Martinez and I have talked to the CCO Mr. Steven Pyka and a representative from the Board Ms. Lewallen. I declare as follows:

Counsel for State is correct there is no case law on this particular point.

The issues in this case are unique.

Mr. Martinez lives in Pierce County. His parents live in Thurston County. Martinez was barred from entering Thurston County by the Board. Counsel spoke with Pyka, Martinez's CCO and asked the Pyka if Martinez could change his address from Pierce County to Thurston County. The Pyka said that would never happen. The Board would have to approve that request. I then contacted the Board and was told that this request must come from the CCO. Counsel called the CCO back and told him of this information. The CCO said he would not start this process. He felt he couldn't because Martinez was banned from Thurston County.

Martinez has limited ability to function intellectually. He has a job. Martinez's parents owned their own landscaping business. Martinez could live with his parents and work with his parents.

The victim does not live in Thurston County. He moved a few years back. He now is in the ARMY and lives in Texas. He will be the property of the ARMY for at least 6 years. I was able to go onto social media and have downloading some information which indicates he is now living in another state. When Counsel called the Board I asked them to verify where the victim lived. They refused to do this and hung up. If I couldn't verify where the victim lived how could the process ever be started.

On the victim's mother face book account she is asked by a friend where her son will be posted and she replied: "He is going to Texas". This comment was made on August 24, 2016. There are numerous pictures of the victim showing him in uniform. On November 11, 2016 the victim was posted to Texas.

Other family members and friends confirm that the victim is now stationed in Texas. .

Martinez's mother is related to the victim. Not only was she told by family members that the victim lives in Texas but she has his address at Fort Sam Houston.

All of the information I have about the victim living in Texas and being in the ARMY is easily ascertained by anyone especially the Board or the current CCO. I will give the information to the AG. I do not wish to attach to this declaration because of the requirements that the victim's name and pictures

and address not be disclosed in a potentially public forum.

Counsel for the State authored the following in its response to Martinez's petition: "The Board is always free to relieve an offender like Martinez from a particular condition at any time if changed circumstances arise (for example, if his victim relocates to a different county)". Pg 16. The victim is now in another state and will probably be posted overseas somewhere.

The Board will not act. I tried to get them to act. Pyka gave counsel the name and phone to call in order to try and get the no contact with Thurston County removed but the Board was unwilling to start the process. The Board referred Counsel to the CCO and the CCO referred Counsel to the Board. Nothing will change.

Earlier Counsel called the Board because he was informed by Martinez's mother who is related to the victim that the victim was attending college in Seattle. We spoke to the victim and he told us he was living in Seattle. I asked the Board if they could confirm this and I was hung up on. I called and talked to another person at the Board and was advised the Board would never remove the prohibition from coming to Thurston County. Martinez's mother Linda Tower has told Counsel that the victim's grandmother and aunt told her he lives in Texas.

The Pyka did not give permission for Martinez to enter Thurston County. The CCO refused to do this. Counsel had to get a court order from

a Thurston County Judge allowing Martinez to come to court. The CCO would not let Martinez come to court. (Attachment A is two court orders and hearing notices)

The State has not address Martinez's argument. The Board does not have the right based upon the laws of the State of Washington or case law to impose this type of restriction. The Board acted beyond its scope of authority.

If this Court strikes this condition Counsel can the start the process of getting an approved address to Martinez's parents home.

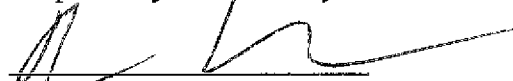
I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

I also certify under penalty of perjury that on today's date Counsel placed in the U.S. mail, postage prepaid, to:

Timothy Lang
Office of the Attorney General
PO Box 40116
Olympia, WA 98504-0116

and emailed to the Attorney General's Office a copy of this Declaration.

Respectfully submitted by:


Richard Woodrow #18680

12-30-10
Date

A

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4 **FILED**

5 MAY 24 2016

6 Superior Court
7 Linda Myhre Enlow
8 Thurston County Clerk

9 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

10 IN AND FOR THE COUNTY OF THURSTON

11 STATE OF WASHINGTON,

12 Plaintiff,

13 vs.

14
15 GREG MARTINEZ,

16 Defendant.
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NO. 05-1-01083-9

MOTION FOR ORDER
ALLOWING DEFENDANT
TO ATTEND COURT

Date of Hearing:

18 **MOTION**

19 COMES NOW the Defendant, GREG MARTINEZ, by and through his
20 attorney, Richard Woodrow and moves the court for an order allowing him to attend
21 court. This motion is based upon the attached declaration of counsel and
22 Washington and United States Constitution and RCWs 9.94A.703 and 704.

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24 DATED this 24th day of May, 2016

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27 MOTION
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Richard Woodrow
3732 Pacific Ave SE
Olympia, WA 98501
360 352 9911
Fax 360 352 9955

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3 Richard Woodrow WSBA #18680
4 Attorney for the Defendant

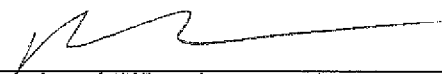
5 **DECLARATION**

6 The Defendant was convicted of a sex offense and as a result he was order to
7 be placed on Community Custody for life. After release from prison the defendant
8 was order to not enter Thurston County and to live in Pierce County. The victim of
9 the defendant's crime lived in Thurston County. The victim now attends college
10 in Kirkland. Counsel spoke to the victim and he said he now lives in the Seattle area.

11 Counsel called the defendant's DOC officer and asked if the defendant could
12 come to court and the DOC officer said that they would not allow this. The officer
13 said if the defendant came to court they would consider that a violation of his DOC
14 conditions. Counsel pointed out the this was beyond DOC's authority. The officer
15 said, finally, if there was a court order allowing the defendant to attend court they
16 would not violate the defendant.

17 Counsel has set a court date for Thursday, June 9, 2016 at 9:00 am. The
18 purpose of this court date would be to ask the court to modify the community
19 custody conditions.
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26 DATED this 24th day of May, 2016

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28 Richard Woodrow WSBA #18680
Attorney for the Defendant

MOTION

Richard Woodrow
3732 Pacific Ave SE
Olympia, WA 98501
360 352 9911
Fax 360 352 9955

IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR THURSTON COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

Greg Steven Martinez
Defendant.

NO.

05-1-01083-9

ORDER CONTINUING HEARING

DOCKET #

1

For plea/sentencings only:

Date Approved by
Judicial Assistant

CURRENT TRIAL DATE: ____/____/____. ☒ no trial date/not applicable]

This matter having come before the undersigned Judge for a

☐ Pretrial Hearing ☐ Omnibus Hearing ☐ Plea Hearing ☐ Diversion Review

☒ Other Defense Motion on 06/09/2016, 20 16.

The Court hereby grants the parties' request that this case be set for

☐ Pretrial Hearing ☐ Omnibus Hearing ☐ Plea Hearing ☐ Sentencing ☐ Diversion Review

☒ Other Defense Motion re: release conditions and the defendant is ORDERED to appear for hearing on

June 30, 20 16 at ☒ 9:00 a.m. ☐ 10:30 a.m. ☐ 1:30 p.m. ☐ Other:

before the CRIMINAL PRESIDING DEPARTMENT. The previously established
Conditions of Release shall remain in effect. **FAILURE TO APPEAR WILL RESULT IN A WARRANT
BEING ISSUED FOR YOUR ARREST AND MAY SUBJECT YOU TO FURTHER CRIMINAL
CHARGES.**

Dated this 9th day of June, 2016.

Megan Weider 42962
Deputy Prosecuting Attorney, WSBA#

[Signature]
Attorney for Defendant, WSBA# 1862

HEARING CONTINUANCE ORDER- 1

JUDGE

[Signature]
Erik D. Price

Copy Received:

Greg Martinez
Defendant

Jon Tunheim
Thurston County Prosecuting Attorney
2000 Lakeridge Drive S.W.
Olympia, WA 98502
(360) 786-5540 Fax (360) 754-3358

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

STATE OF WASHINGTON,

Plaintiff,

vs.

GREG MARTINEZ,

Defendant.

NO. 05-1-01083-9

FILED

MAY 26 2016

ORDER

Superior Court
Linda Myhre Enlow
Thurston County Clerk

Date of Hearing:

THIS MATTER, coming on in regular course of business and after listening to the argument of counsel and reviewing this files and records herein, being fully advised in the premises, does now make and enter the following:

IT IS HEREBY ORDERED

Mr. Greg Martinez is allowed to attend his court hearing on June 9, 2016. The hearing is scheduled to start at 9:00 am.

IT IS FURTHER ORDERED that a copy of this order shall be sent to the assigned DOC officer on Mr. Martinez's case.

DONE IN OPEN COURT this 26th day of May, 2016

JUDGE

Erik D. Price

PRESENTED BY:

RICHARD WOODROW #18680

APPROVED BY:

PROSECUTOR

ORDER

Richard Woodrow
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Olympia, WA 98501
(360) 352 9911
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2 IN THE SUPERIOR COURT OF WASHINGTON
3 IN AND FOR THURSTON COUNTY

4 STATE OF WASHINGTON,

Plaintiff,

5 vs.

6 Greg Steven Martinez
7 Defendant.

NO. 05-1-01083-9

ORDER

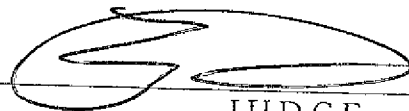
#1

8 IT IS HEREBY ORDERED that the Defendant shall be
9 permitted to travel to Thurston County for
10 his court hearing on Thursday, June 30, 2016
11 at 9:00 Am.
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21 DATED: June 9th, 2016.


24 Approved
25 PRESENTED BY:

26 Megan Winder 42962
Deputy Prosecuting Attorney/WSBA



JUDGE

Presented **Erik D. Price**
APPROVED BY:

Attorney for Defendant/WSBA 

ORDER #1

Jon Tunheim
Thurston County Prosecuting Attorney
2000 Lakeridge Drive S.W.
Olympia, WA 98502
(360) 786-5540 Fax (360) 754-3358